

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-052971

02/11/2011

HONORABLE DOUGLAS GERLACH

CLERK OF THE COURT

C. Vigil

Deputy

IN RE THE MARRIAGE OF
BRADLEY ROBERT ZEMAN

BRADLEY ROBERT ZEMAN
18715 N 79TH AVE
GLENDALE AZ 85308

AND

ARMANDA SUZANNE ZEMAN

ARMANDA SUZANNE ZEMAN
5253 MAUNA LOA LN
GLENDALE AZ 85306

CONCILIATION SERVICES-NE

MINUTE ENTRY

Northeast Facility, Courtroom 104

10:02 a.m. This is the time set for a Temporary Orders Hearing. Petitioner, Bradley Zeman, is present on his own behalf. Respondent, Armanda Zeman, is present on her own behalf.

A record of this proceeding is made by audio and/or video in lieu of a court reporter.

Discussion ensues between the Court and both parties.

IT IS ORDERED the parties shall participate in a Parenting Conference with Child Interview for Jonni Zeman only. The parties will be advised by separate minute entry of the name and telephone number of the Parenting Conference Provider and other relevant information

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regarding the Parenting Conference. The parties shall comply with all instructions and directives issued by the Provider.

IT IS FURTHER ORDERED that immediately following this hearing each party is directed to pay the \$300 per party fee at the Clerk of the Court filing counter. Forms to request a fee deferral are available at the filing counter.

WARNING

IF YOU FAIL TO APPEAR AT THE PARENTING CONFERENCE AS ORDERED, YOU MAY BE REQUIRED TO PAY A \$100 NO SHOW FEE. IF YOU CANNOT ATTEND, YOU MUST REQUEST AND BE GRANTED PERMISSION FROM THE JUDGE IN YOUR CASE TO RESCHEDULE THE CONFERENCE AT LEAST THREE FULL COURT DAYS BEFORE THE CONFERENCE. IF AN AGREEMENT IS REACHED PRIOR TO YOUR APPOINTMENT DATE, YOU MUST SUBMIT A REQUEST TO THE JUDGE TO VACATE THE CONFERENCE AND WAIVE THE FEE IN ORDER TO AVOID FEE COLLECTION.

IT IS FURTHER ORDERED taking the issue of custody and parenting time under advisement.

IT IS FURTHER ORDERED vacating the Trial date of May 4, 2011 and resetting same to June 20, 2011 at 1:30 p.m. (Allotted time: 2 hours)

10:20 a.m. Hearing concludes.

L A T E R:

The Court has been asked to consider whether either of the temporary orders in this matter should be effective through the trial date in June. Petitioner/Father Bradley Robert Zeman has asked the Court to reinstate the arrangement set forth in the Court's January 13, 2011, Minute Entry. Respondent/Mother Armanda Suzanne Zeman has asked the Court to leave in effect the temporary order that she obtained on February 8, 2011. The Court has concluded that neither party's request is warranted.

Although it is highly unusual to modify a temporary order, the Court has concluded that doing so here is in the best interests of the parties' children. The January 13 order was attributable principally to the Court's understanding that Mother's work schedule allowed her to take care of the children for only limited periods of time. Based on Mother's representations, that no longer appears to be a concern. At the same time, the principal basis for granting the February 8 order no longer seems to be a matter of concern. Although Father has admitted to

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spanking the children in the past, to his credit, he has said that he is changing his ways, and the Court sees no reason not to allow him the opportunity to prove himself in that respect.

Arizona law establishes as a matter of policy that a parent's parenting time should not be restricted unless "the parenting time would endanger seriously the child's physical, mental, moral, or emotional health." A.R.S. § 25-411(D). The Court has not received evidence compelling enough to conclude that either parent poses a serious threat to the children's health, whether physical, mental, moral, or emotional. Therefore, as a temporary order, an equal parenting time plan is warranted.

That said, the Court emphasizes that this ruling is provisional only and should not be read as the Court's final determination regarding any issue. Although this ruling represents an attempt to apply the statutory requirements that govern such a final determination, it may be that, at a future hearing, additional evidence will be produced that would compel a different ruling.

IT IS ORDERED:

1. Effective immediately, what is called a "5-2-2-5" parenting plan will be in effect, with one minor modification so that the children are not in the same parent's care two consecutive weekends, as follows:

a. Beginning February 11 at 6 p.m. (or as soon after as can be accommodated) the children will be in Father's care through the morning of February 14 (Father will be responsible for providing transportation to take the children to school that morning).

b. The children will then be in Mother's care for the next two nights (February 14-15), with Mother responsible for providing transportation to take the children to school on the morning of February 16.

c. The children will then be in Father's care for the next two nights (February 16-17), with Father responsible for providing transportation to take the children to school on the morning of February 18.

d. The children will then be in Mother's care for the next five nights (February 18-22), with Mother responsible for providing transportation to take the children to school on the morning of February 23.

e. The children will then be in Father's care for the next five nights (February 23-27), with Father responsible for providing transportation to take the children to school on the morning of February 28.

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f. The children will then be in Mother's care for the next two nights (February 28-March 1), with Mother responsible for providing transportation to take the children to school on the morning of March 2.

g. The children will then be in Father's care for the next two nights (March 2-3), with Father responsible for providing transportation to take the children to school on the morning of March 4.

h. The children will then be in Mother's care for the next five nights, Father's care for the following five nights, Mother's care for two nights, and Father's care for two nights, at which time the cycle starts over (i.e., Mother 5, Father 5, Mother 2, Father 2, and so forth). For purposes of this order, the last "night" of parenting time concludes by taking the children to school the following morning or, if there is no school, by taking the children to the other parent's residence not later than 8:30 a.m.

2. The parents are free to agree between themselves about modifying this arrangement. To make such an agreement binding as far as the Court is concerned, it must be in writing and signed by both parties. The parties should not expect the Court to enforce oral agreements.

3. Both parents are expected to comply with the following terms:

a. **Parental Access to Records And Information** – Both parents are entitled to have equal access to documents and other information concerning each child's education and physical, mental, moral and emotional health including medical, school, police, court and other records directly from the custodian of the records or from the other parent. A parent who does not comply with a reasonable request shall reimburse the requesting parent for court costs and attorney fees incurred by that parent to force compliance with this subsection. A parent who attempts to restrict the release of documents or information by the custodian, without a court order, is subject to appropriate legal sanctions.

b. **Educational Arrangements** – Both parents have the right to participate in school conferences, events, and activities (including extra-curricular), and the right to consult with teachers and other school personnel.

c. **Medical and Dental Arrangements** – Both parents have the right to authorize emergency medical/dental treatment, if needed, and the right to consult with physicians and other medical practitioners. Both parents shall advise the other parent immediately of any emergency medical/dental care sought for each child, to cooperate on health matters pertaining to each child and to keep one another reasonably informed regarding the status of each child's health. Both

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parents shall keep each other informed as to names, addresses, and telephone numbers of all medical/dental care practitioners.

d. **Parental Communication** – It is in the best interests of each child for the parents to communicate with one another and for the views of each parent to be considered by the other. To address day-to-day and more significant issues involving the children, the parents shall use e-mail as their primary method for communication. This will allow both accountability and verifiability. Both parties shall maintain and regularly review their e-mail accounts. They shall each respond in a timely fashion, even if such response is merely to acknowledge the receipt of information. Each should print copies of all e-mails received and sent so that if an issue arises in the future that has been addressed through e-mail, each party will have proof of what was communicated.

e. **Relocation** – Neither parent shall relocate the residence of the children to a distance that would require them to change schools unless the parent seeking relocation either secures the written consent of the other parent or obtains a court order authorizing the move before attempting to relocate.

f. **Deviations** – The parents are free to agree to any temporary deviations from the parenting schedule. If they agree to any permanent modification, which they are also free to do, it will not be enforceable unless it is in writing and signed by both parties. In all events, the parents will cooperate with each other on an ongoing basis to accommodate the schedules of the parents and the minor children, and the parents are to be reasonably flexible when one of them asks for a temporary modification.

g. **Telephone Access** – Both parents shall make arrangements for reasonable telephone access to the children. The parent with whom the children are not staying will be allowed one telephone call each night to the children. The call shall be placed after 7 p.m. and before 8 p.m., and shall not last more than 30 minutes, unless other arrangements are made. The children shall be given privacy during phone calls and there shall be no interference by either parent with phone access.

h. Conduct in Presence of the Children –

h-1. Neither parent shall expose the children to any incidents of domestic violence or extreme or hostile conflict or language. Neither parent shall expose the children to derogatory comments about the other parent or the relatives or friends of the other parent. The parents shall neither argue nor insult each other in the presence of the children or allow a third party to do so. Neither parent shall frighten the

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children by saying things such as the other parent is trying to take him away, the other parent does not love him, want to see him, or is interfering with visits.

h-2. The parents shall not discuss custody, parenting time or child support issues in the presence of or with the children. The parents shall ensure that the children are not exposed to any discussion about custody disputes or legal proceedings other than to assure the children that the parents are trying to work out appropriate arrangements so that the children can have frequent regular access to both parents.

h-3. The parents shall not question the children about where they want to live. The parents shall not question the children about the personal life of the other parent. The parents shall not express to the children how angry they are at the other parent, how they doubt the trustworthiness of the other parent, or how hurt or frustrated they are by the actions of the other parent.

h-4. Each parent is restrained from using or permitting others to use the children to convey oral or written messages between households. Communications should take place directly between the parents, and the children should be protected from involvement in adult issues, such as changes in the parenting time schedule.

h-5. Both parents shall be listed as emergency contacts on any forms that require contact information such as, but not limited to, education, activities, childcare and medical providers.

h-6. During exchanges, the parties shall make every effort to be polite and respectful to each other. Interaction between the parents shall be restricted to the orderly exchange of the children. The parents are not to use the exchanges of the children or other circumstances in which the children are present to share information with one another, make request of one another, engage in negotiations, or related activities.

h-7. Neither parent shall do or say anything that might tend to alienate the affection of the children for the other parent, nor shall either parent allow any third person to do so.

h-8. Neither parent shall permit the children to be subjected to corporal punishment of any kind including, but not limited to hitting or striking with an instrument, and/or hitting or striking with a closed fist or open hand. Neither parent

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shall permit the children to be punished by use of anything that could cause injury, bruising, or significant pain.

h-9. Each parent shall encourage love and respect between the children and the other parent. Neither parent shall disparage the other parent or act in a way to hurt the other parent's relationship with the children.

i. Decision Making Authority – When questions that affect the children's well being arise, the parents shall address the issues amicably, in good faith, and in a spirit of cooperation that will result in what is best for the children. That means that each parent shall respect the views of the other and consider them as seriously as that parent would want his or her own views considered. If necessary, the parties should seek the opinions of professionals whose opinions may be relevant, such as teachers or medical professionals.

4. To the extent that any previous Court orders in this matter are inconsistent with anything said in this order, this order controls.

IT IS FURTHER ORDERED signing this minute entry as a formal Order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HONORABLE DOUGLAS GERLACH

JUDGE OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.